

NOTICE OF EMERGENCY MEETING

of

GALVESTON COUNTY COMMISSIONERS COURT

to be held at

Galveston County Commissioners Courtroom

**722 Moody/21st Street
Galveston, Texas 77550**

On

Thursday, April 21, 2011 at 9:00 a.m.

Notice is hereby provided in accordance with the Open Meetings Act that an emergency meeting of the Commissioners Court of Galveston County, Texas, shall be held on Thursday, April 21, 2011 in the Galveston County Commissioners Courtroom, which is located on the 1st Floor of the Galveston County Courthouse at 722 Moody/21st Street in the City of Galveston, Texas, to begin at 9:00 a.m.

An emergency meeting is required because an emergency or urgent public necessity exists due to extreme fire hazard in unincorporated areas of Galveston County and immediate action is required because of an imminent threat to public health and safety.

MEETING AGENDA

- 1.) Call to Order
- 2.) Pledge of Allegiance and Invocation
- 3.) Consideration of Order Prohibiting Outdoor Burning in All Unincorporated Areas of Galveston County, submitted by the Emergency Management Coordinator.

*

I hereby certify that the foregoing Notice of Emergency Meeting has been posted in accordance with requirements of the Open Meetings Act.

Patricia Grady,
Legal Liaison to County Judge Henry

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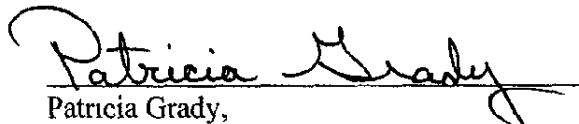
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Patricia Grady,
Legal Liaison to County Judge Henry

State of Texas §
County of Galveston §

Mark Henry, County Judge,
Patrick F. Doyle, Commissioner, Precinct No. 1; *absent*
Kevin OBrien, Commissioner, Precinct No. 2,
Stephen D. Holmes, Commissioner, Precinct No. 3,
Kenneth Clark, Commissioner, Precinct No. 4, and *absent*
Dwight D. Sullivan, County Clerk

Whereas, pursuant to Section 352.081 of the Texas Local Government Code, the Commissioners' Court by order may prohibit or restrict outdoor burning in all or part of the unincorporated areas of Galveston County, Texas,

Whereas, the Governor of the State of Texas has proclaimed a state of disaster based on the threat of extreme fire hazard covering 252 counties, including the County of Galveston,

Whereas, unincorporated areas also include marsh areas, including such areas that are inaccessible to fire trucks and vehicles;

Whereas, commercial and/or residential areas are adjacent to or in close proximity to marsh areas and other areas with tall dead grass,

Whereas, Galveston County has received requests from the High Island Volunteer Fire Department, the BacLiff Volunteer Fire Department, the San Leon Volunteer Fire Department, and the Galveston Fire Department requesting issuance of a burn ban;

Whereas, the fuel dryness map published by the Texas Forest Service and the Spatial Sciences Laboratory, Texas AgriLIFE Research, shows Galveston County as critically dry;

Whereas, the daily fire danger map published by the Texas Forest Service and the Spatial Sciences Laboratory, Texas AgriLIFE Research, shows Galveston County under a high fire danger;

Whereas, the Commissioners' Court **FINDS** that circumstances are present in all unincorporated areas of Galveston County, Texas, that create a public safety hazard that would be exacerbated by outdoor burning;

Whereas, there is an upcoming long holiday weekend in which many outdoor activities may be planned and citizens, persons, and property will be vulnerable to imminent threat due to extreme fire hazard;

Whereas, notice of this Emergency Meeting has been posted in compliance with requirements of the Open Meetings Act, specifically Section 551 045 of the Texas Government Code,

Whereas, immediate action is required of the Commissioners' Court due to imminent threat to public health and safety due to extreme fire hazard, and

Whereas, the Commissioners' Court **FINDS** that an emergency or urgent public necessity exists due to extreme fire hazard in unincorporated areas of Galveston County and immediate action is required of the Commissioners' Court because of an imminent threat to public health and safety

Now, Therefore, it is hereby ORDERED, by the Commissioners' Court of Galveston County, Texas, that

1.) Outdoor burning in all unincorporated areas of Galveston County is hereby **PROHIBITED**,

2.) This Order shall take effect immediately on and from its issuance and remain in effect continuously thereafter until a subsequent order lifting this Prohibition is issued, provided however that the period of this **OUTDOOR BURN BAN** may not extend beyond the 90th day after the date this Order is adopted,

3) In accordance with Section 352.081(f) of the Texas Local Government Code, this Order shall not apply to outdoor burning activities related to public health and safety that are authorized by the Texas Natural Resource Conservation Commission for: firefighter training, public utility, natural gas pipeline, or mining operations; planting or harvesting of agricultural crops, or to outdoor burning activities that are conducted by a prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code,

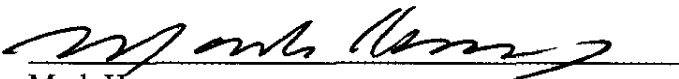
4) In accordance with Section 352.081(h) of the Local Government Code, a person commits an offense if the person knowingly or intentionally violates this Order, an offense under this Order is a Class C misdemeanor, and

5) The County Judge of Galveston County, Texas is authorized to execute this Order on behalf of the Commissioners' Court of Galveston County, Texas

Be it FURTHER ORDERED, that the County Clerk is Ordered to transmit forthwith a copy of this Order to the Sheriff, Constables, and Criminal District Attorney of Galveston County for enforcement purposes

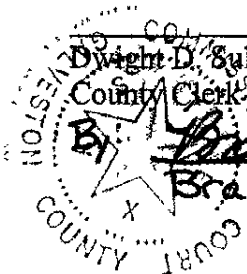
Upon Motion Duly Made and Seconded, the above Order is hereby **ADOPTED**, on this, the 21st day of April, 2011


COUNTY OF GALVESTON, TEXAS, By

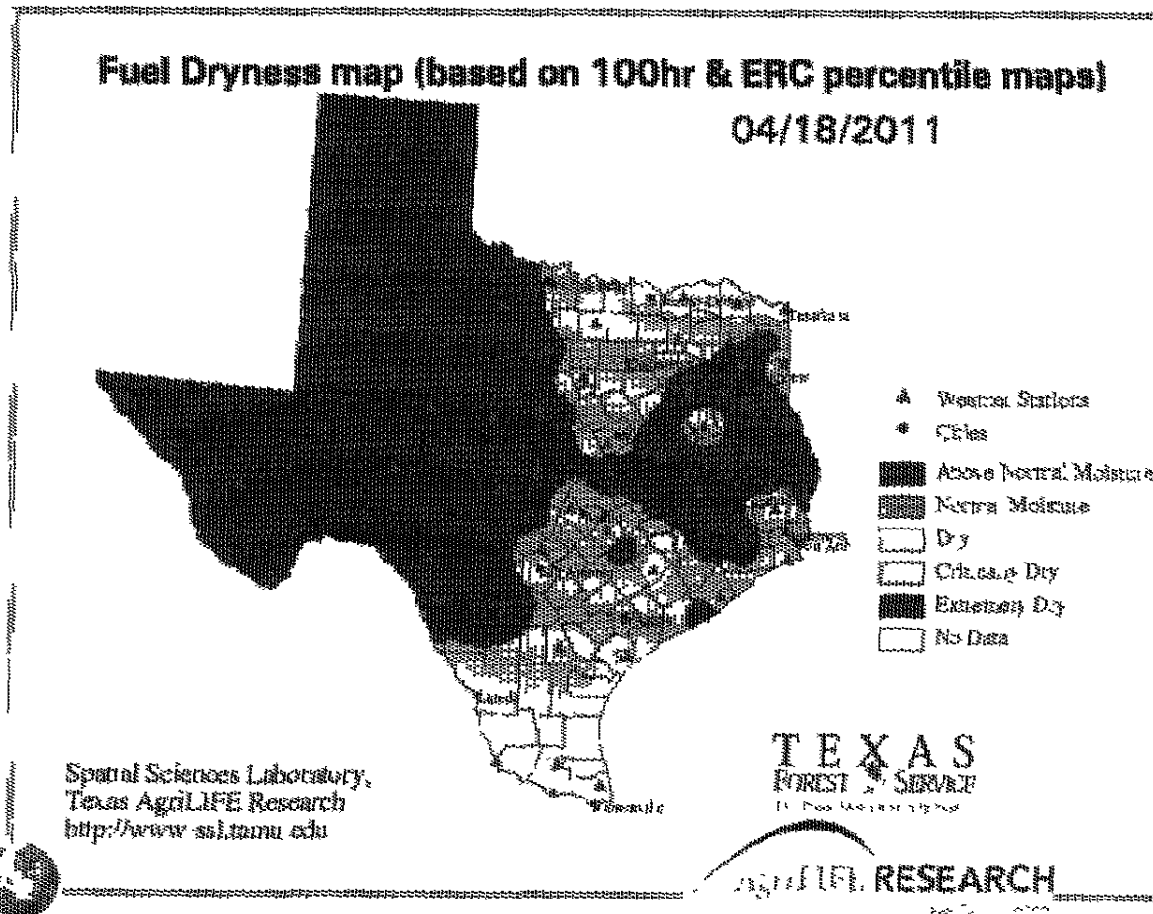


Mark Henry,
County Judge

ATTEST:

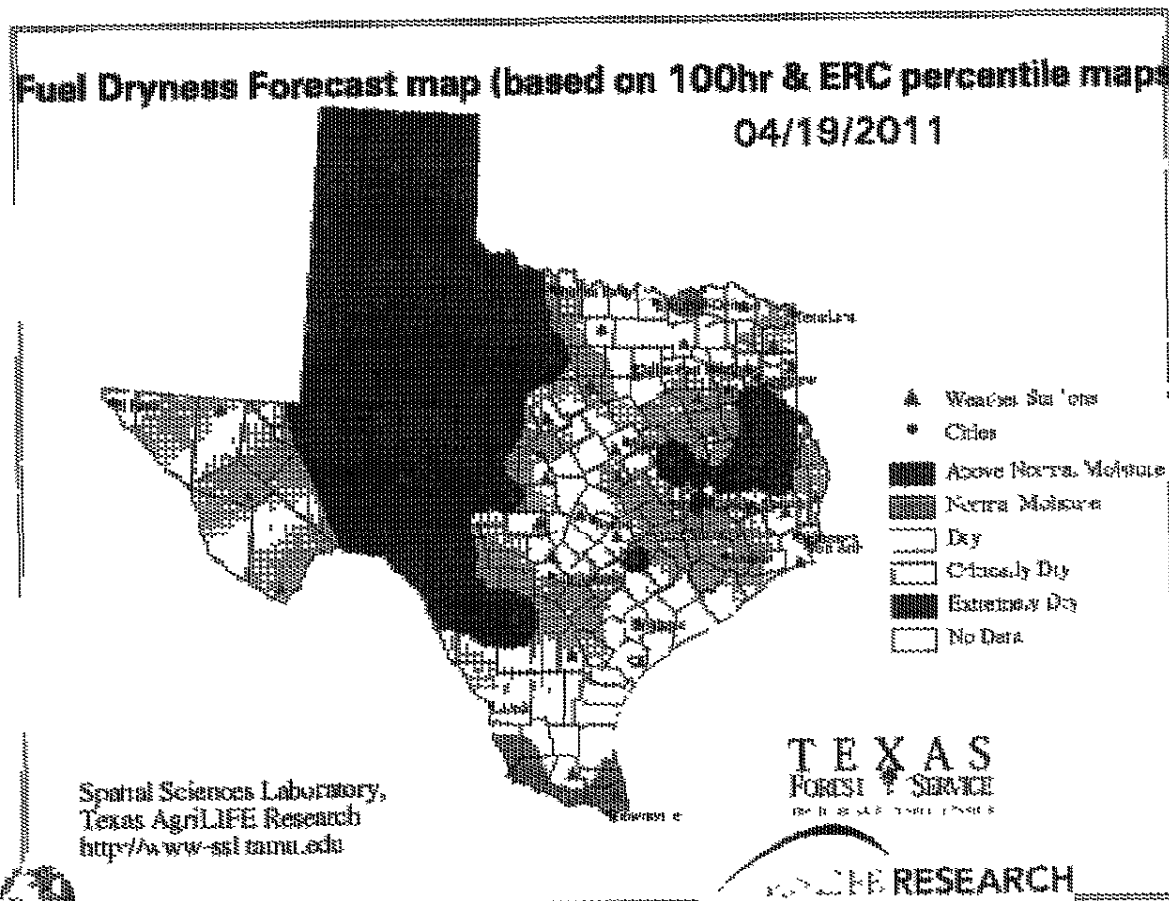


Dwight D. Sullivan,
County Clerk
By 
Brandy Chapman, Deputy

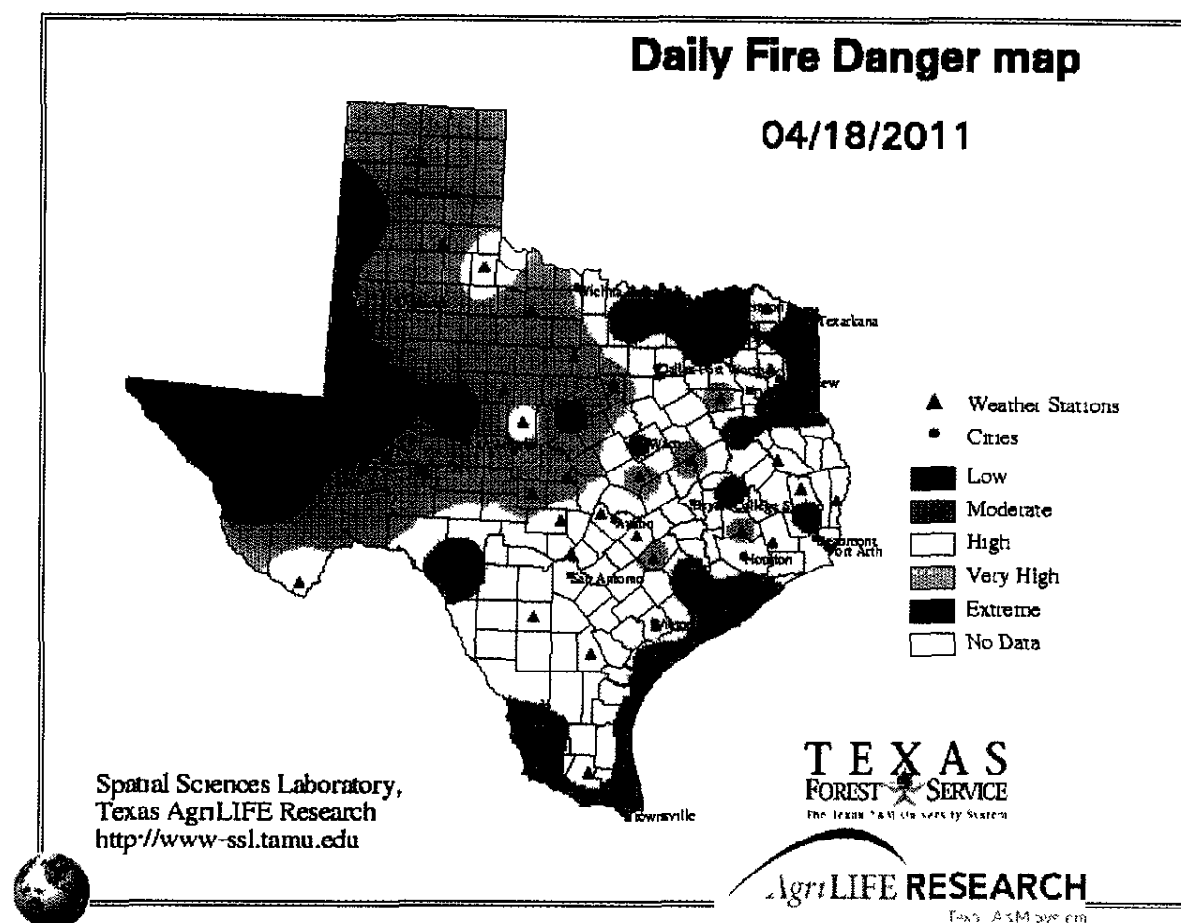


Observed fuel dryness mapimag» 1 of 2

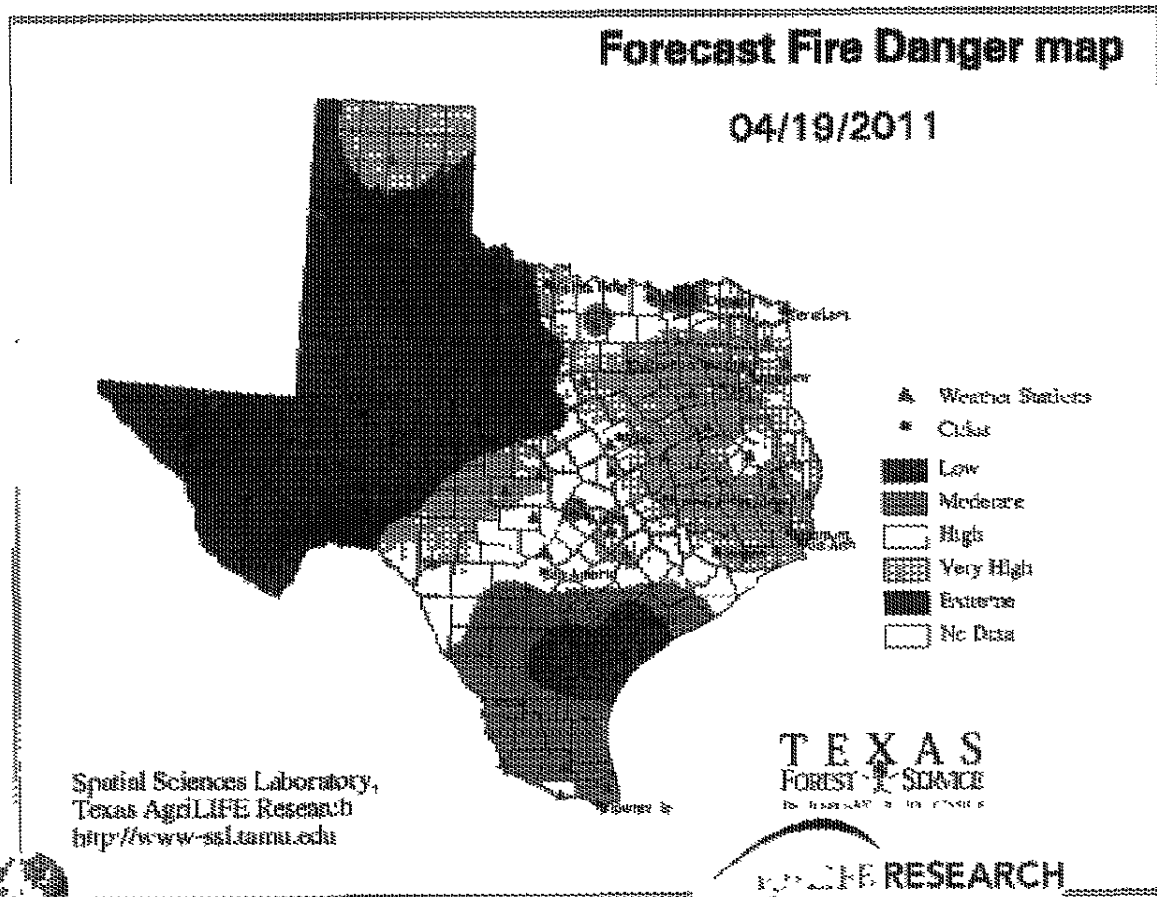
X



Forecast fuel dryness map image 2 of 2



Texas Observed Fire DangerImage 1 of 3
CLOSE X



Texas Forecast Fire DangerImage 3 of 3
X

Gov. Perry Again Extends Disaster Proclamation for Threat of Extreme Wildfires

Friday, April 15, 2011 • Austin, Texas • Proclamation

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Sunday, April 17, 2011 • Austin, Texas • Press Release

[Gov. Perry Requests Major Disaster Declaration as Extreme Wildfire Danger Continues](#)

Tuesday, April 12, 2011 • Merkel, Texas • Press Release

[Gov. Perry Tours Areas Devastated by Wildfires](#)

Sunday, April 10, 2011 • Austin, Texas • Press Release

[State Resources Pre-deploying in Response to Extreme Wildfire Threat](#)

Friday, March 18, 2011 • Austin, Texas • Proclamation

[Gov. Perry Extends Disaster Proclamation for Threat of Extreme Wildfires](#)

Friday, February 25, 2011 • Austin, Texas • Press Release

[State Resources Pre-deploying in Response to Extreme Wildfire Threat](#)

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, **RICK PERRY**, Governor of the State of Texas, issued an Emergency Disaster Proclamation on December 21, 2010, as extreme fire hazard posed a threat of imminent disaster in specified counties in Texas

WHEREAS, the extreme fire hazard continues to create a threat of disaster for the people in the State of Texas

WHEREAS, the state of disaster includes the counties of Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchison, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard,

Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Yoakum, Young, Zapata and Zavala

THEREFORE, in accordance with the authority vested in me by Section 418 014 of the Texas Government Code, I do hereby renew the disaster proclamation and direct that all necessary measures, both public and private as authorized under Section 418 017 of the code, be implemented to meet that disaster

As provided in Section 418 016 of the code, all rules and regulations that may inhibit or prevent prompt response to this threat are suspended for the duration of the state of disaster

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 15th day of April, 2011

RICK PERRY
Governor

HIGH ISLAND



Volunteer Fire Rescue

P O Box 144, 2041 7th Street High Island, Texas 77623
Phone (409) 286-5811 Fax (409) 286-5424

April 18, 2011

John Simsen -- Galveston County Emergency Management

Ref Burn Ban for the Bolivar Peninsula

Mr Simsen,

High Island Volunteer Fire Rescue, located on the extreme west end of the Bolivar Peninsula, is requesting a burn ban to be declared for the Bolivar Peninsula

High Island and the entire Bolivar Peninsula have experienced several weeks of warm dry temperatures with low humidity with a only a very few small scattered rain showers recently These little showers did not contain enough moisture to any amount to help the dry situation over here on the Bolivar Peninsula

On top of that, with the dry and dead brush/grass all along the Bolivar Peninsula, these little showers do nothing to help except wet down the top layer which quickly dissipates with the current dry weather conditions The Bolivar Peninsula has also had the never ending South wind blowing that adds to the drying effect of the dry vegetation

The Bolivar Peninsula has had several small brush/grass fires in the past couple of weeks, but thanks to the volunteers of the High Island VFD, Crystal Beach VFD and Port Bolivar VFD, they were quickly extinguished before the fires had a chance to get out of control

As you know, most of Texas is in a burn ban proclamation declared by Governor Perry for most counties From what I am seeing, Galveston County is now also in the burn ban declaration area But it was found out that the local governing bodies of each county must declare the burn ban to be placed in effect and to be enforceable

For this reason, High Island Volunteer Fire Rescue is asking a burn ban for the Bolivar Peninsula to be enacted I know this is not going to help with how the people of the Bolivar Peninsula will react to a burn ban but this will give the Galveston Sheriff's Office the power to enact, enforce and and stop most fires before they could potentially cause a major fire situation over here on the Bolivar Peninsula This burn ban could possibly help with any future fires that may happen on the Bolivar Peninsula with the dry conditions

If any additional information is needed, please contact either High Island Volunteer Fire Rescue Fire Chief Orbin Thompson @ 409-599-6116 or President Robert L Isaacks Jr @ 409-466-1928

Sincerely,

Robert L Isaacks Jr
President
High Island Volunteer Fire Rescue

cc Orbin Thompson

Reingold, Myrna

From: Simsen, John
Sent: Tuesday, April 19, 2011 3:34 PM
To: Reingold, Myrna, Grady, Patricia, Henry, Mark
Cc: Jeff Smith (Fire Dept), 'Mike Wisko'
Subject: FW: Drought, fire weather follow-up

Ladies and gentlemen,

Please see another request for burn ban below

Regards,

John Simsen

From: Jeff Smith (Fire Dept.) [<mailto:smithjef@cityofgalveston.org>]
Sent: Tuesday, April 19, 2011 3:28 PM
To: Simsen, John
Cc: Mike Wisko
Subject: RE: Drought, fire weather follow-up

John,

The City of Galveston Fire Department is respectfully requesting a call for a burn ban in Galveston County. There were 195 counties in Texas under such a ban as of yesterday, with more being adopted this week. The largest problem is that while the KDBI is locally down, we believe this to be a false indicator under the State's current disaster status. Galveston County fire departments are on standby for 24 hour notice to deploy. This means that local resources will be reduced for wildland incidents within our own County, if and when deployed. If there is a major incident, the outside resources needed to support our event may be unavailable to the County in a timely manner.

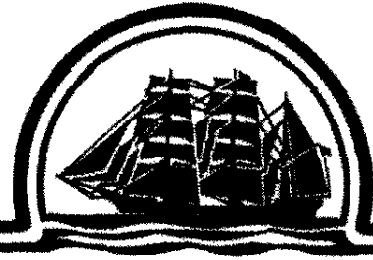
Please look at the Texas Forest Service website to realize the state-wide problem that we are all watching and are on stand-by. I believe this to be a time to be proactive until the state begins to stabilize its current, and anticipated, wildland incidents. I would challenge you to learn the availability of county departments for daytime staffing to support grass fire operations in a high wind environment. Galveston has its one brush truck in the shop for repairs until further notice. Galveston is scheduled to get a new TFS brush truck, but the state disaster situation has delayed the arrival of our assigned vehicle. We can not support any grass fires off road anywhere in County until further notice.

<http://texasforestservice.tamu.edu/main/article.aspx?id=12888>

With Honor and Respect,

Jeff Smith
Fire Chief
Galveston Fire Department
409-797-3850

City of Galveston



Office of the Fire Marshal

2517 Ball, Suite 203 / Galveston, Texas 77550

(409) 797-3870 / Fax (409) 797-3875

April 20, 2011

Galveston County Commissioners Court
County of Galveston
722 Moody
Galveston, TX 77550

Re. Burn Ban for Galveston County

County Judge and Commissioners:

On behalf of the City of Galveston, Fire Marshal's Division, I would like to encourage the commission to approve the proposed burn ban for Galveston County. In light of the recent events here in Texas; and the many acres of open land in the unincorporated areas of Galveston County a burn ban would greatly reduce the potential risk of grass fires.

A prolonged lack of significant rainfall has led to decreased levels of moisture in heavier fuels commonly found in wooded areas. These low levels of moisture found in fuels such as fallen limbs, trees and accumulated debris has made these materials much more susceptible for fire than normal.

Your continued support for the safety of life and property is appreciated.

Sincerely,

Gilbert Robinson
Fire Marshal

GR.ta

Reingold, Myrna

From: Simsen, John
Sent: Tuesday, April 19, 2011 3 22 PM
To: Scott Lyons
Cc: Reingold, Myrna, Henry, Mark, Grady, Patricia
Subject: RE Drought, fire weather followup

Thanks, Scott

We are going to ask court to approve the ban Tuesday, April 26

John

From: Scott Lyons [<mailto:sanleonvfd@verizon.net>]
Sent: Tuesday, April 19, 2011 3:02 PM
To: Simsen, John
Subject: Re: Drought, fire weather followup

The san leon VFD is requesting a burn ban due to lack of rain and very dry conditions we have had 10 grass fires this month and getting into spring more and more people are doing outdoor burns if you could please help us on this matter we would really appreciate it due do the lack of personal and resource'

Asst Chief Scott Lyons

On Apr 18, 2011, at 11 32 AM, "Simsen, John" <John.Simsen@co.galveston.tx.us> wrote

Ladies and gentlemen,

This is a follow-up to my email of last week requesting information about drought and fires in your jurisdiction.

We understand you are beginning to get pressure from outside agencies seeking fire equipment due to the dire situation across Texas Galveston County has not yet adopted an outdoor burn ban for the unincorporated areas, and this is likely adding to the pressure on your resources

If you would like the county to adopt a burn ban, **please send an email requesting such,** and please include any information you have to support the ban – incidence of wildfires since January, industrial fires, rain gauge readings; etc. Remember that counties need factual findings ("other circumstances") if our KBDI numbers aren't yet in the range typical of late summer/early fall (500-600) We adopted a ban in January with exactly this type of other information

Reingold, Myrna

From: Simsen, John
Sent: Tuesday, April 19, 2011 11:01 AM
To: Reingold, Myrna
Subject: Fw: Burn Ban for Galveston County

Here is the request from Bacliff VFD.

-----Original Message-----

From: James Wistinghausen <jwistinghausen@yahoo.com>
To: Simsen, John
Sent: Tue Apr 19 10:53:12 2011
Subject: Burn Ban for Galveston County

John,

Please consider a "Burn Ban" for Bacliff in Galveston County. The grass is really dry due to the lack of rain and the water supply from the Gulf Coast Water Authority is starting to be in a critical state. NOAA's forecast for April thru June is predicted to be way below the average. Your consideration on this matter, will be greatly appreciated.

Thank You,
James Wistinghausen
Bacliff MUD General Manager
Bacliff VFD Chief

COUNTY FIRE PROTECTION
Ch. 352

§ 352.081

"Sec 2 Nothing in this Act shall be construed to preempt or take precedence over any provision of S B No 1, 75th Legislature, Regular Session, should such proposal be finally enacted

"Sec 3 The changes in the law made by this Act apply to drought conditions that may arise in any county or part of a county in this state. Any regulations adopted prior to the effective date of this Act [Sept 1, 1997] are governed by the law that existed immediately before that effective date, and those regulations are continued in effect for that purpose until such effective date Subsequent to the effective date of this Act, the provisions of this Act shall supersede any other provisions of law or regulations of administrative or other governmental bodies "

S B No 1 was enacted as Acts 1997, 75th Leg, ch 1010

Acts 1999, 76th Leg, ch 1244, in the section heading, substituted "Restricted" for "Certain", in subsec (a)(1), substituted "Restricted" for "Aerial", and substituted "missiles with fins" for "other pyrotechnic devices that have fins or rudders for the purpose of achieving aerodynamic flight, including devices that would be considered a missile or a rocket", in subsec (c), in the first and second sentences, substituted "sale or use of restricted" for "use of certain aerial", in subsec (f), in the first sentence, substituted "restricted" for "aerial", and in subsec (g), substituted "any type of" for "aerial", and substituted ", including restricted" for "or other"

Cross References

Punishment, Class C misdemeanor, see V T C A, Penal Code § 12 23

Library References

Explosives 1, 3
Westlaw Topic No 164
C J S Explosives §§ 2 to 4, 10, 13, 20, 22

Research References

Treatises and Practice Aids

Brooks, 36 Tex Prac Series § 31 8, Fire-works

SUBCHAPTER D OUTDOOR BURNING

§ 352.081. Regulation of Outdoor Burning

(a) In this section, "drought conditions" means the existence of a long-term deficit of moisture creating atypically severe conditions with increased wildfire occurrence as defined by the Texas Forest Service through the use of the Keetch-Byram Drought Index or, when that index is not available, through the use of a comparable measurement that takes into consideration the burning index, spread component, or ignition component for the particular area

(b) On the request of the commissioners court of a county, the Texas Forest Service shall determine whether drought conditions exist in all or part of the county. The Texas Forest Service shall make available the measurement index guidelines that determine whether a particular area is in drought condition Following a determination that drought conditions exist, the Texas Forest Service shall notify the county when drought conditions no longer exist The Texas Forest Service may accept donations of equipment or funds as necessary to aid the Texas Forest Service in carrying out this section

(c) The commissioners court of a county by order may prohibit or restrict outdoor burning in general or outdoor burning of a particular substance in all or part of the unincorporated area of the county if.

§ 352.081

PUBLIC SAFETY Title 11

(1) drought conditions have been determined to exist as provided by Subsection (b), or

(2) the commissioners court makes a finding that circumstances present in all or part of the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning

(d) An order adopted under this section must specify the period during which outdoor burning is prohibited or restricted. The period may not extend beyond the 90th day after the date the order is adopted. A commissioners court may adopt an order under this section that takes effect on the expiration of a previous order adopted under this section.

(e) An order adopted under this section expires, as applicable, on the date:

(1) a determination is made under Subsection (b) that drought conditions no longer exist, or

(2) a determination is made by the commissioners court that the circumstances identified under Subsection (c)(2) no longer exist

(f) This section does not apply to outdoor burning activities.

(1) related to public health and safety that are authorized by the Texas Natural Resource Conservation Commission for

(A) firefighter training,

(B) public utility, natural gas pipeline, or mining operations, or

(C) planting or harvesting of agriculture crops, or

(2) that are conducted by a prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code

(g) Any person is entitled to injunctive relief to prevent the violation or threatened violation of a prohibition or restriction established by an order adopted under this section

(h) A person commits an offense if the person knowingly or intentionally violates a prohibition or restriction established by an order adopted under this section. An offense under this subsection is a Class C misdemeanor

Added by Acts 1999, 76th Leg., ch. 1435, § 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1185, § 1, eff. Sept. 1, 2001. Renumbered from § 240.906 by Acts 2001, 77th Leg., ch. 1420, § 12.004, eff. Sept. 1, 2001.

Historical and Statutory Notes

Acts 2001, 77th Leg., ch. 1185, rewrote subsection (f), which formerly read:

"(f) This section does not apply to outdoor burning activities related to public health and safety that are authorized by the Texas Natural Resource Conservation Commission for

"(1) firefighter training,

"(2) public utility, natural gas pipeline, or mining operations, or

"(3) harvesting of agriculture crops."

Cross References

Punishment, Class C misdemeanor, see V.T.C.A., Penal Code § 12.23

COUNTY FIRE PROTECTION Ch. 352

Fires § 3

Westlaw Topic No. 175

C.J.S. Fires §§ 1 to 4

Treatises and Practice Aids

Brooks, 36 Tex. Prac. Section and Equipment

§ 352.082. Outdoor Burning

(a) This section applies to

(1) that is adjacent to

(2) in which a portion of land, that was part of a Community Development District that is subject to a variable budget based on

(b) In this section, "outdoor burning" means burning by Section 343.002,

(c) A person commits an offense if the person burns household refuse

(1) located in a

(2) smaller than

(d) An offense under this section is in addition to any fine or punishment provided by Section 16(e), Article 42.12, of the Texas Constitution.

Added by Acts 2005, 79th Leg., ch. 100, § 1, eff. Sept. 1, 2005.

Community supervision, see V.T.C.A., Penal Code § 12.23
Outdoor burning of waste, see V.T.C.A., Penal Code § 12.23
Punishment, class C misdemeanor, see V.T.C.A., Penal Code § 12.23

Fires § 3

Westlaw Topic No. 175

C.J.S. Fires §§ 1 to 4